

Surface Mining Reclamation and Enforcement, Interior

§ 736.25

303(c) of the Clean Water Act, as amended (33 U.S.C. 1288, 1313(c)).

[44 FR 15329, Mar. 13, 1979, as amended at 47 FR 26367, June 17, 1982; 48 FR 44779, Sept. 30, 1983]

§ 736.23 Federal program effect on State law or regulations.

(a) Whenever a Federal program is promulgated or revised for a State, any statutes or regulations of the State regulating coal exploration or surface coal mining and reclamation operations subject to the Act shall be preempted and superseded by the Federal program insofar as they are inconsistent with the requirements of the Act and the Federal program. In promulgating or revising a Federal program for a State, the Director shall set forth in the FEDERAL REGISTER any State statute or regulation which is preempted and superseded by the Federal program.

(b) The provision of any State statute or regulation which provides for more stringent land use and environmental control and regulation of coal exploration or surface coal mining and reclamation operations than do the provisions of the Act or any regulation issued under the Act shall not be preempted and superseded by the Director and shall be incorporated into the Federal program for the State.

[44 FR 15329, Mar. 13, 1979, as amended at 47 FR 26367, June 17, 1982]

§ 736.24 Federal program effect on State funding.

(a) After the withdrawal of a State program and the promulgation and implementation of a complete Federal program for a State and extending until approval of a new State program, the Director shall not—

(1) Approve, fund or continue to fund a State abandoned mine reclamation program, under section 405(c) of the Act and 30 CFR 884.14, 884.15, 884.16 and 886.18; or,

(2) Make any grants to assist the State in administering and enforcing State programs under the Act and 30 CFR 735.11 and 735.12.

(b) After the withdrawal of a State program in part and the promulgation and implementation of a partial Fed-

eral program for a State and extending until the approval of a complete State program the Director shall not—

(1) Approve, fund or continue to fund a State abandoned mine reclamation program, under section 405(c) of the Act and 30 CFR 884.14, 884.15, 884.16 and 886.18, unless the Director finds, in writing, that discontinuation of funding would not be consistent with achieving the purposes of the Act, and

(2) Make any grants to assist the State in administering and enforcing State programs under the Act and 30 CFR 735.12, unless the Director finds in writing that discontinuation of funding would not be consistent with achieving the purposes of the Act.

§ 736.25 Permit fees.

(a) *Applicability.* An applicant for a new permit to conduct surface coal mining operations under a Federal program shall submit to OSM fees in the amounts set out in paragraph (d) of this section. For applications submitted prior to the effective date of this rule, fees shall apply only for stages of OSM review begun on or after the effective date. The applicant shall either submit all applicable fees with the permit application, or by stage of review as follows:

(1) *Administrative completeness review.* An applicant who pays by stage of review shall submit the administrative completeness review fee with the permit application.

(2) *Technical review.* Following receipt from OSM of a notice of administrative completeness, an applicant who pays by stage of review shall submit the technical review basic fee, plus the per-acre fee for each acre of disturbed area or fraction thereof to be included in the permit area.

(3) *Permit issuance.* Following receipt from OSM of a notice of technical adequacy, an applicant who pays by stage of review shall submit the decision document fee.

(b) *Refund of fees.* (1) Upon receipt of a written request from an applicant, OSM will refund any permit fees paid under this section for a permit application when OSM denies the permit:

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(i) On the basis of information concerning endangered or threatened species or their critical habitats or information concerning cultural or historical resources, where such information was not available prior to submission of the permit application;

(ii) Because subsequent to submittal of a permit application, the lands contained in the permit application are declared unsuitable for mining under subchapter F of this chapter; or

(iii) Because subsequent to submittal of a permit application, the applicant is denied valid existing rights to mine under part 761 of this chapter where such rights are required for surface coal mining operations on the lands contained in the permit application.

(2) An applicant may file a written request for withdrawal of a permit application and a refund of fees in accordance with paragraph (b)(3) of this section.

(3) OSM will, upon receipt of written request for withdrawal of a permit application, cease processing of that application. If requested, OSM will refund fees paid by the applicant for the withdrawn application as follows:

(i) Any fees for a stage of OSM review not yet begun will be refunded;

(ii) Where technical review has begun, partial refund will be made of any technical review fee amounts remaining after deduction of actual OSM costs incurred for that technical review. Costs to process the withdrawal may also be deducted.

(4) No interest will be paid on refunded fees.

(c) *Form of payment.* All fees due under this section shall be submitted to OSM by the applicant in the form of a certified check, bank draft or money order, payable to Office of Surface Mining.

(d) *Fee schedule for a new permit.*

Administrative completeness review.	\$250.00
Technical review:	
Basic fee	1350.00
Fee per acre of disturbed area in permit area:	
First 1,000 acres	13.50/acre
Second 1,000 acres	6.00/acre
Third 1,000 acres	4.00/acre
Additional acres	3.00/acre
Decision Document	2000.00

[55 FR 29548, July 19, 1990]